IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.1064 of 2022
and
W.M.P.Nos.1126 & 1128 of 2022

(Through Video Conferencing)

S.Gunvanth Raj ... Petitioner

Vs.

1. The Additional/Joint/Deputy/Assistant Commissioner of Income Tax/Income-Tax Officer,
National E-Assessment Centre, Delhi.

2. The Principal Chief Commissioner of Income Tax,
National E-Assessment Centre,
Income Tax Department, Delhi.

3. The Assistant Commissioner of Income-Tax,
Non-Corporate Circle 4(1), Aaykar Bhawan,
Nungambakkam, Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records of penalty proceedings initiated under Section 221(1) of the Income Tax Act, 1961 in PAN No.AAFPK9519F in DIN & Notice No.ITBA/RCV/S/221/2021-2022/1037345342(1)/DATED 29/11/2021 by the third respondent and quash the same as it is initiated without jurisdiction and against the provisions of Income Tax Act.

For Petitioner : Mr.R.Swarnavel

For Respondents : Mr.Prabhu Mukunth Arun Kumar
Junior Standing Counsel

ORDER

Mr.Prabhu Mukunth Arun Kumar, learned Junior Standing Counsel takes notice on behalf of the respondents.

2. There is no merits in this writ petition and the

petitioner has not challenged the order passed under Section 220 (6) of the Income Tax Act, 1961.

3. Though the case of the petitioner is that the petitioner has filed a statutory appeal on 27.10.2021 against the Assessment Order dated 27.09.2021, the fact of the matter is that the petitioner has not deposited 20% of the disputed tax. Under these circumstances, the petitioner has been issued with the impugned notice under Section 221(1) of the Income Tax Act, which calls upon the petitioner to show cause as to why penalty under the aforesaid provision should not be imposed on the petitioner and why the petitioner has not replied to the same.

4. The petitioner's only case is that pending disposal of the appeal, proceedings under Section 221(1) of the Income Tax Act cannot be initiated. The fact that the petitioner had neither deposited the entire tax amount nor has deposited 20% of the disputed tax as is contemplated under Section 220(6) of the Income Tax Act read with the relevant circulars issued by the Central Board of Direct Taxes (CBDT) does not call for any interference. Therefore, I do not find any merits in the present writ petition.

5. However, liberty is given to the petitioner to deposit 20% of the disputed tax or such other amounts as per the prevailing circulars by filing appropriate application before the respondents, to convince the respondents, to grant waiver.

6. This Writ Petition stands dismissed with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(Digit)

//True Copy//

Sub Assistant Registrar

arb/rgm

To

1. The Additional/Joint/Deputy/Assistant Commissioner of Income Tax/Income-Tax Officer,
National E-Assessment Centre, Delhi.

2. The Principal Chief Commissioner of Income Tax,
National E-Assessment Centre,
Income Tax Department, Delhi.

3. The Assistant Commissioner of Income-Tax,
   Non-Corporate Circle 4(1), Aaykar Bhawan,
   Nungambakkam, Chennai.

+1cc to Mr.Hema Murali Krishnan, Advocate, S.R.No.5568

W.P.No.1064 of 2022
and
W.M.P.Nos.1126 & 1128 of 2022

MT(CO)
SU(18/02/2022)